

In the United States Court of Federal Claims

No. 05-1002V

Filed: September 9, 2013

Not to be Published

MELISSA CLOER, M.D.,

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Petitioner,

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v.

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Attorneys' Fees and Costs

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SECRETARY OF HEALTH AND
HUMAN SERVICES

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Respondent.

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DECISION AWARDING ATTORNEYS' FEES AND COSTS¹

On September 6, 2013, the parties filed a Stipulation of Attorneys' Fees and Costs for one of petitioner's attorneys, Robert Fishman. After informal discussions, the parties have agreed on \$200,000.00 in fees and \$8,815.05 in costs incurred by Robert Fishman. Pursuant to Vaccine General Order #9, petitioner represents that she personally incurred expenses that are compensable under 42 U.S.C. § 300aa-15(e)(1) in the amount of \$534.56.

The request for attorneys' fees and costs is granted. Petitioner is awarded reasonable attorneys' fees and costs pursuant to 42 U.S.C. §§ 300aa-15(b) and (e)(1), as I find that the petition was brought in good faith and upon a reasonable basis, and the amounts requested are reasonable and appropriate.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), a party has 14 days to identify and move to redact medical or other information, that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, I agree that the identified material fits within the requirements of that provision, I will redact such material from public access.

Accordingly, I hereby award the total amount of \$209,349.61 as follows:

- **a lump sum of \$208,815.05,² in the form of a check payable jointly to petitioner and petitioner's counsel, Robert Fishman; and**
- **a lump sum of \$534.56, in the form of a check payable solely to petitioner.**

In the absence of a timely-filed motion for review filed pursuant to Appendix B of the Rules of the U.S. Court of Federal Claims, the Clerk of the court shall enter judgment in accordance herewith.³

IT IS SO ORDERED.

s/Denise K. Vowell
Denise K. Vowell
Special Master

² This amount is intended to cover all legal expenses incurred by Robert Fishman in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, 42 U.S.C. § 300aa-15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See *generally Beck v. Sec'y, HHS*, 924 F.2d 1029 (Fed. Cir. 1991).

³ Entry of judgment can be expedited by each party's filing of a notice renouncing the right to seek review. See Vaccine Rule 11(a).